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OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

*Travis Co.*

Honorable Joe Kunschik, Commissioner  
Bureau of Labor Statistics  
Austin, Texas

Dear Sir:

Opinion No. Q-2363  
Re: Whether unfired vessels  
connected by pipes to steam  
generators and operating  
as a unit are within the  
Texas Boiler Inspection  
Act, Article 5221c, V.A.C.S.

This will acknowledge receipt of your letter of  
August 26, 1940, requesting the opinion of this department  
upon the above matter. Your letter reads in part as fol-  
lows:

"We desire to know whether we are within  
our rights in requiring that all unfired vessels  
connected by pipes to steam generators shall  
be required to be entirely safe, considering the  
boiler and all appurtenances connected therewith  
as an entire unit. In this connection, we desire  
to require that safe equipment only shall be  
used, and we want to enforce this requirement  
to the fullest extent of the law.

"In order that an idea of the equipment  
under consideration may be had, the following  
brief description is made:

"One vessel might be considered as a unit  
containing coils somewhat similar to those  
used in some hot water heaters. The flame  
will be under these coils and will generate  
the steam.

"Next to the above unit, and connected  
therewith by pipes, is an unfired vessel  
which stores steam that has been generated.

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"Next to the unfired vessel is a vessel somewhat like a hot water tank.

"The steam from the generating vessel passes into the unfired vessel and the steam may pass from this unfired vessel by hose to an automobile nearby which is to be cleaned by steam. The steam from the generating vessel may also pass into the unfired vessel and then into the separate water tank, thereby heating the water. This generating unit is represented to be able to generate 100 pounds of steam pressure within five minutes from a cold start; therefore, a steam pressure of 100 pounds or more may exist in the unfired vessel which is within a foot of the steam generator and also within a foot of the water tank.

"Our desire is to require that this entire assembly or unit shall be equipped with adequate safety appliances and appurtenances and that the operation of this entire assembly or unit shall be safely carried on. In other words, if the unfired vessel is not of sufficient strength to withstand the maximum pressure that the generator will create, we desire to require that it shall be of sufficient strength or else be equipped with an adequate pop off valve, and any and all other gauges, and necessary safety appurtenances."

Section 2 of Article 5221c, Vernon's Annotated Civil Statutes, provides in part;

"No steam boiler, unless otherwise specifically exempted in this Act, shall be operated within the State of Texas unless such boiler has been registered within the Bureau of Labor Statistics and there shall have been issued a Certificate of Operation for such boiler, as hereinafter provided for, . . ."

Section 1 of Article 5221c, Vernon's Annotated Civil Statutes, defines a "boiler" as;

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"'Boiler' as used herein shall mean any vessel used for generating steam for power or heating purposes."

Section 6 of the Act provides for the promulgation of rules and regulations by the Commissioner and our attention has been directed to certain such rules and regulations that have been adopted requiring the use of safety equipment on boilers.

The purpose of the Texas Boiler Inspection Act is to promote safety in the use and operation of steam generators. *Nichols v. Park* (C.C.A. 1938), 119 S. W. (2d) 1066. Bearing in mind that the Act is bottomed upon an exercise of the legislative police power to provide a measure of safety in the use of dangerous instruments, we believe it would be a narrow construction of the Act indeed to restrict its application to one vessel operating with others as a unit in the generation and storage of steam for power or heating purposes. To our mind the phrase "vessel used for generating steam for power or heating purposes" is synonymous with the phrase "vessel used in the process of generating and making available steam for power or heating purposes."

It is our opinion and you are respectfully advised that machines of the type described in your letter are vessels used for generating steam and, as a unit, are within the Texas Boiler Inspection Act, and subject to the regulatory powers of the Bureau of Labor Statistics.

Very truly yours

ATTORNEY GENERAL OF TEXAS

BY

*James D. Smullen*  
James D. Smullen  
Assistant

JDS:rw

APPROVED SEP 17, 1940

*Grubb Mann*  
ATTORNEY GENERAL OF TEXAS

